

RECEIVED
CENTRAL FAX CENTER

APR 23 2005


FAX COVER SHEET

To: USPTO
Exr. Jeanette E. Chapman
Art Unit 3635

Date: 04/23/05

From: Werner H. Schroeder
Patent Agent
Reg. No. 36,387

Number of pages including cover sheet: 4Comments: Application No 10/705,573Response to an Office Action


Signature

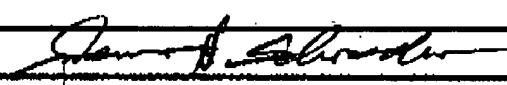
PTO/SB/21 (09-04)

Approved for use through 07/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM <small>(to be used for all correspondence after initial filing)</small>	Application Number	10705.573	
	Filing Date	11/12/2003	
	First Named Inventor	Philip J. Schrodner	
	Art Unit	3835	
	Examiner Name	J. E. Chapman	
Total Number of Pages in This Submission	4	Attorney Docket Number	

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks _____		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name			
Signature			
Printed name	Werner H. Schroeder		
Date	04/23/05	Reg. No.	38,387

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Response to a second Office Action

Application No. 10/705,573

This communication is a response to a second Office Action but a first claim rejection. The communication has a mailing date of 04/15/2005 and sets forth a shortened statutory period for of three months which would expire on 07/15/2005.

Remarks

Claims 10 and 12 are rejected under 35 U.S.C 103(a) as being unpatentable over Eaton (6,755,001) in view of Dumlao (6,092,350).

First of all, applicant is claiming a wall and not a flooring system as is disclosed by both the references cited. A wall is constructed entirely different than a floor and, therefore, are not equal to each other in construction and in load bearing characteristics. The examiner cannot equate both to be wall(floor) as was done. The floor of Eaton is disseminated by the examiner as:

1) a fabric material 140 is being located on one side of the wall floor.

It is pointed out to the examiner that 140 is not a fabric at all. Eaton identifies the alleged fabric (examiner) (col. 6 lines 1 - 21) as a shrinkage shrinkage-control mesh 140 made of a cross-grid of metal rods, preferably of steel. The shrinkage control mesh 140 is laid such that that the mesh grid is generally oriented in the directions of bearing members 110 and joists 122, thus providing added concrete strength as well as shrinkage control. The fabric material in use by applicant is entirely different from the mesh identified by Eaton. Applicant's fabric is a woven or non-woven cloth. (Specification, page 1, under heading of "Summary of Invention"). Stated very simple, the mesh material of Eaton is no fabric and, therefore, this reference must fail as a base reference against the claims.

The examiner further states under: